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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/536,973	12/23/2005	Albert Wauters	6.70.1066 PCT/IB-US (LBT1)	6216
7590 Levy & Grandinetti P.O. Box 18385 Washington, DC 20036-8385			EXAMINER NORMAN, MARC E	
			ART UNIT 3744	PAPER NUMBER
			MAIL DATE 08/06/2009	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/536,973	<b>Applicant(s)</b> WAUTERS ET AL.	
	<b>Examiner</b> Marc E. Norman	<b>Art Unit</b> 3744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 April 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-49 is/are pending in the application.
- 4a) Of the above claim(s) 8,9,12-26,28,29 and 33-49 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7,10,11,27 and 30-32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 May 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>6/17/05</u> .   | 6) <input type="checkbox"/> Other: _____                          |

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## **DETAILED ACTION**

### ***Election/Restrictions***

Applicant's election with traverse of Group I in the reply filed on 4/30/09 is acknowledged. The traversal is on the ground(s) that Figure 2 presents a species of the invention which reads on all of the claims. This is not found persuasive because Figure 2 fails to teach many of the features of the claimed invention (for example, it does not teach any of the temperature sensors, the controller, or any of the particular control algorithms recited), and thus cannot be construed to teach all of the limitations of the claims. The restriction requirement as set forth in the paper of 3/31/09 is thus maintained as proper. Claims 1-7, 10, 11, 27, and 30-33 are examined on the merits below.

The requirement is still deemed proper and is therefore made FINAL.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.

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2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-7, 10, 11, 27, and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnston in view of Harrison et al. and Clifford.

As per claims 1 and 27, Johnston teaches a beer keg 20 having a top and bottom portion and a dispensing device extending to the bottom portion of the keg (via tap rod 106; Figure 1). Johnston does not teach an associated cooling apparatus or the claimed temperature sensors/controller arrangement. Harrison et al. teach a cooling plate apparatus for cooling the bottom of a beverage container (Figure 1; see also column 1, line 31 regarding the applicability of the cooling device to a keg). It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the cooling apparatus of Harrison et al. to the keg of Johnston for the purpose of keeping the beer in the keg at a desirable temperature for consumption. Clifford teaches the concept of a liquid container having a temperature control device 21 at the bottom of the container, a first temperature sensor 48 located at a bottom portion of the container, a second temperature sensor 42 located at an upper portion of the container, and a temperature control portion which controls the temperature control device based on the sensed temperatures (Figures 2A-2F). While Clifford is directed to a water heater rather than a cooled beverage container, the basic concept of maintaining a desirable temperature relationship between the top and bottom of the container, when the temperature is controlled at the bottom of the container, is the same. It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the dual temperature sensor-based temperature control of

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Clifford to the keg of Johnston for the purpose of keeping the fluid therein at desirable temperatures throughout the container.

As per claim 2, 3, and 6, official notice is taken that it would have been obvious to one of ordinary skill as a matter involving predictable results to cool the keg of Johnston if the temperature sensors therein indicate that the beverage is above a desired serving temperature and to stop cooling when the sensors indicate that the beverage is at its desired temperature.

As per claims 4, 5, and 7, official notice is further taken that it is generally known that frozen beer is undesirable and that it would have been obvious to one of ordinary skill as a matter involving predictable results stop cooling if one of the sensors indicates that the beer is freezing.

As per claims 10 and 30, Harrison et al. further teach the cooling plate being cooled by thermoelectric device 28.

Claims 11, 31, and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnston in view of Harrison et al. and Clifford as applied above and further in view of Rankin, Sr.

As per claims 11 and 31, Johnston does not teach the keg being insulated. Rankin, Sr. teaches an insulating cover 28 for a beer keg. It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the insulated cover of Rankin, Sr. to the keg of Johnston for the purpose of preventing cooling loss of the beverage therein.

As per claim 32, Rankin, Sr. does not teach the insulated walls being graduated. Official notice is taken that the degree of insulation is a matter of general engineering design choice based on the relationship of cooling loss vs. insulation cost. To the extent that the bottom of the keg is colder (and thus susceptible to greater cooling loss) than the top of the keg, it would have

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been an obvious matter to one of ordinary skill in the art involving predictable results to provide more insulation to the bottom portion of the keg.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marc E. Norman whose telephone number is 571-272-4812. The examiner can normally be reached on Mon.-Fri., 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cheryl Tyler can be reached on 571-272-4834. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MN

/Marc E. Norman/  
Primary Examiner, Art Unit 3744